

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE MERCK & CO., INC., SECURITIES,
DERIVATIVE & "ERISA" LITIGATION

MDL No. 1658 (SRC)

THIS DOCUMENT RELATES TO:
THE CONSOLIDATED ERISA ACTION

Case No. 2:05-CV-01151-SRC-MAS
Case No. 2:05-CV-02369-SRC-MAS

**STIPULATION AND ORDER REGARDING CERTAIN WITNESSES
WHOSE PRIOR DEPOSITION TESTIMONY IS BEING USED IN THIS ACTION**

WHEREAS, on March 15, 2010, the Court entered a Stipulation and Order Regarding Use of Prior Deposition Testimony (the "March 15, 2010 Stipulation"), which identifies forty witnesses whose deposition testimony in prior Vioxx-related litigation shall be treated "as if it had been taken in this action";

WHEREAS, pursuant to the March 15, 2010 Stipulation, Plaintiffs and Defendants (collectively, the "Parties") have met and conferred concerning the further questioning of eight witnesses whose prior deposition testimony is covered by the March 15, 2010 Stipulation; and

WHEREAS, in an effort to streamline discovery and avoid additional litigation over the scope of further questioning of witnesses who previously were deposed, the Parties have agreed to the following:

IT IS HEREBY STIPULATED AND AGREED by and between the Parties, through their undersigned counsel, AND SO ORDERED, as follows:

1. Plaintiffs agree not to seek further questioning of the following witnesses as long as Defendants do not offer affirmative testimony from such witnesses outside of the prior deposition testimony that is the subject of the March 15, 2010 Stipulation ("Additional Testimony"):

Eliav Barr
Wendy Dixon
Briggs Morrison
Thomas Musliner
Alan Nies
Alise Reicin
Deborah Shapiro
Douglas Watson

2. In the event Defendants decide to introduce Additional Testimony from any of the witnesses listed in paragraph 1 (whether live, by declaration, by affidavit or otherwise), Defendants shall give Plaintiffs reasonable notice of such intention, and Plaintiffs shall be permitted to seek to depose any such witness solely with respect to the subject matter of the Additional Testimony.

3. The Parties do not request that any deadlines be extended as a result of this agreement.

DATED: May 17, 2010

AGREED TO BY:

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By: _____

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By: s/ Lisa J. Rodriguez

DATED: May 17 2010

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DATED: May 17, 2010

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SO ORDERED:

May 17, 2010

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Hon. Michael A. Shipp
United States Magistrate Judge